

UNIFIED JUDICIAL DISTRICT
SOUTHERN DISTRICT OF NEW YORK

DEBORAH A. SINKOV, as Father and
Potential Personal Representative of
SPENCER SINKOV, deceased, and the
ESTATE of Spencer S. Sinkov, deceased,

Plaintiffs,

-against-

RONALD B. SMITH, individually and in
his official capacity as Sheriff of
Putnam County, JOSEPH A. VASATURO,
individually, LOUIS G. LAPOLLA,
individually, THE COUNTY OF PUTNAM,
New York, and AMERICOR, INC.,

Defendants.

222 Bloomingdale Road
White Plains, New York
January 27, 2008
2:45 p.m.

EXAMINATION BEFORE TRIAL of PETER CLARKE, a
Witness on behalf of the Defendant AMERICOR, INC.,
in the above-captioned matter, held at the above
time and place, before a Notary Public of the
State of New York.

Donna Bochnik,
Shorthand Reporter

COMPU-TRAN SHORTHAND REPORTING

IT IS HEREBY STIPULATED AND AGREED,

by and between the attorneys for the respective
parties hereto, that the reading and filing of
the within deposition be waived; that such
deposition may be signed and sworn to before any
officer authorized to administer an oath with
the same force and effect as if signed and sworn
to before a Justice of this Court.

IT IS FURTHER STIPULATED AND AGREED
that all objections, except as to form, are
reserved to the time of trial.

IT IS FURTHER STIPULATED AND AGREED
that the within examination and any corrections
thereto may be signed before any Notary Public
with the same force and effect as if signed and
sworn to before this Court.

COMPU-TRAN SHORTHAND REPORTING

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ALSO PRESENT: Denny A. Sinkov
Donald Smith
oob

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PETER CLARKE,

having been duly sworn by Donna Bochnik,
a Notary Public within and for the State
of New York, was examined and testified
as follows:

oob

EXAMINATION BY MS. BERG:

Q. State your name and address for the
record, please.

A. Peter Clarke, 105 Tammany Hall Road,
Carmel, New York 10512.

Q. Mr. Clarke, I'm Kim Berg. I
represent the Sinkov family. I'm going to be
asking you some questions here today.

Let me know if there's anything I
say that you don't understand. I'll be happy to
explain it or rephrase it for you.

A. Okay

Q. I can see when you nod your head,
but that can't be taken down for the transcript.
You need to verbalize your response.

A. Yes, I understand.

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

Q. If you give an answer during the deposition that's incorrect or incomplete - you realize you misspoke or you forgot to say something - please let me know before we leave here today, so we make sure we have complete and accurate answers.

A. Yes.

Q. Do you understand all that?

A. Yes.

Q. Okay. Can you describe for me your educational background?

A. I have an associate degree in nursing from Dutchess Community college.

Q. When did you receive that?

A. 1979.

Q. Any other post high school education?

A. I have some credits from State University at New Paltz.

Q. Were those after the associate's degree?

A. Yes.

Q. Do you recall how many credits?

A. No, I don't.

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

Q. Were those also in nursing?

A. No. You know, pre-nursing, like anthropology and things, leading up to a BSN.

Q. Did you ever receive a degree?

A. No, no.

Q. Are you currently in possession of any professional licenses?

A. Registered nurse in the State of New York.

Q. For how long have you held that license?

A. 19 -- I believe, 1980.

Q. Has that license ever been censured or --

A. No.

Q. -- revoked?

A. No --

Q. -- or suspended in any way?

A. No.

Q. Are you currently employed?

A. Yes.

Q. In what capacity?

A. I'm a registered nurse in -- staff nurse in North Central Bronx Jacobi Network. I

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

primarily work in North Central Bronx Emergency Room.

Q. For how long have you held that position?

A. I've been there since -- let me see. I've worked for the network since 1989, July of 1989. I've worked at North Central Bronx since two thousand -- 2002.

Q. Are you employed anywhere else?

A. Arms Acres in Carmel.

Q. What position do you have there?

A. As a staff nurse, per diem.

Q. For how long have you held that position?

A. Approximately, four months.

Q. Any other current positions of employment?

A. No.

Q. Prior to working at Arms Acres, did you have any other positions -- any other position of employment before that?

A. You mean, ever?

Q. Yes.

A. Sure, yes.

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Peter Clarke

Q. When, in terms of the most recent, Arms Acres.

A. Just AmeriCor.

Q. From when to when did you work for AmeriCor?

A. Approximately, five years.

Q. Do you recall when you started?

A. You would think that I would know this, right? I want to say approximately five years. I can't -- I can't.

Q. When did you stop working there?

A. September, September of last year.

Q. Of '07?

A. Yes.

Q. What were the circumstances of your employment ending?

A. I just wanted to work my regular job. You know, it's more lucrative for me to work overtime at my regular job.

Q. Meaning, at North Central Bronx E.R.?

A. Yes.

Q. At any time during your employment with AmeriCor, was your job performance evaluated?

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Peter Clarke

1 A. Yes.

2 Q. In writing?

3 A. Yes.

4 Q. At any time during your employment

5 with AmeriCor, were you ever disciplined or

6 counselled?

7 A. For time abuse. Not time abuse; I'm

8 sorry. For lateness, for coming in late.

9 Q. And who disciplined you on that

10 occasion?

11 A. Rich, the nurse administrator.

12 Q. Was that Rich DiMaggio?

13 A. Yes.

14 Q. Do you recall when that discipline

15 occurred?

16 A. Last summer.

17 Q. Did that discipline have anything to

18 do with you leaving in September of '07?

19 A. No.

20 Q. Any other occasions where you were

21 counselled or disciplined while working for

22 AmeriCor?

23 A. I don't recall.

24 Q. When you worked for AmeriCor, did

25

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Peter Clarke

1 Q. Under what circumstances?

2 A. If somebody was going out to the

3 hospital, I would notify Mr. Duffy.

4 Q. Any other circumstances?

5 A. No.

6 Q. And in terms of your employment with

7 AmeriCor, did you ever receive any written

8 policies or procedures you were required to

9 follow as a staff nurse?

10 A. Yes.

11 Q. Do you recall when you first

12 received them?

13 A. When I first started there, and

14 there was updates.

15 Q. Did you receive any training at any

16 point in time while employed by AmeriCor?

17 A. Yes.

18 Q. Do you recall what kind of training?

19 A. Initially, when I started there, we

20 received training about -- about working at the

21 correction facility, the types of people, you

22 know, that you come in contact with. You know,

23 what you should expect. You know, how to, you

24 know, treat patients in a correction facility.

25

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Peter Clarke

1 you physically report to work at the Putnam

2 County Correctional Facility?

3 A. Yes.

4 Q. That was through the entire time;

5 correct?

6 A. Yes.

7 Q. What were your job duties and

8 responsibilities in that regard?

9 A. To administer medication, to pick up

10 doctor's orders, to -- when somebody under arrest

11 would come in, we would go upstairs and evaluate

12 them, medical problems. If they had medical

13 problems.

14 Q. Was that in booking?

15 A. Yes, booking.

16 Q. Any other duties?

17 A. Medication. No. That's about the

18 gist of it.

19 Q. Who, if anyone, did you report to

20 when you worked for AmeriCor?

21 A. To Rich and to Mr. Duffy.

22 Q. In practice, in reality, did you

23 actually report to Duffy?

24 A. If some -- yes.

25

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Peter Clarke

1 And then, again, we had the suicide prevention,

2 also.

3 Q. When was the suicide-prevention

4 training?

5 A. I believe that was, I want to say

6 last -- last spring. Spring of 2007.

7 Q. Was that the only occasion that you

8 received suicide-prevention training while

9 working for AmeriCor?

10 A. Yes.

11 Q. Were you ever trained with respect

12 to the policies and procedures that AmeriCor had?

13 A. Wait. I'm sorry; say that again.

14 Q. Were you ever given any training or

15 instruction on AmeriCor's policies and

16 procedures? In other words, other than

17 physically giving you the manuals, did anybody

18 ever instruct you about those policies?

19 A. We would go over them with Rich.

20 Q. You did?

21 A. Yes.

22 Q. Were those in-staff meetings, or

23 something else?

24 A. There was staff meetings and also,

25

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1 *Peter Clarke*
 00:16:21 2 you know, one-to-one.
 00:16:32 3 MS. BERG: Let me have
 00:16:43 4 marked as 32, a copy of an
 00:16:54 5 October 11, 2006, memo from Rich to
 00:17:05 6 All Staff regarding the suicide-
 00:17:16 7 prevention class.
 00:17:27 8 (Whereupon, 10/11/06 memo from Rich to
 00:17:38 9 All Staff was marked as Plaintiff's
 00:17:49 10 Exhibit No. 32, for id.)
 00:17:59 11 Q. Take a look at Exhibit 32, which is
 00:18:10 12 a memo from Rich, regarding suicide-prevention
 00:18:21 13 class. (Hanging)
 00:18:32 14 A. The first question is: Do you see
 00:18:43 15 your initials anywhere on the page?
 00:18:54 16 A. No.
 00:19:05 17 Q. Do you recall if the training that
 00:19:16 18 you attended was on any of these days, November 4
 00:19:27 19 or 9, 2006, as opposed to the spring of '07?
 00:19:38 20 A. 11/9/06.
 00:19:49 21 Q. That's when you went?
 00:20:00 22 A. I believe so, yes.
 00:20:11 23 Q. And who provided the training?
 00:20:22 24 A. An officer from Putnam County
 00:20:33 25 Correction Facility.

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1 *Peter Clarke*
 00:20:44 2 Q. Was it a sergeant or a correction
 00:20:55 3 officer?
 00:21:06 4 A. Correction officer.
 00:21:17 5 Q. Was it Spinelli?
 00:21:28 6 A. I believe that's his name, yes.
 00:21:39 7 Q. Anybody else provide the training,
 00:21:50 8 other than Correction Officer Spinelli?
 00:22:01 9 A. There was another officer present.
 00:22:12 10 I don't recall his name.
 00:22:23 11 Q. Do you recall, in substance, what
 00:22:34 12 was conveyed during that training?
 00:22:45 13 A. Suicide prevention; about you know,
 00:22:56 14 signs and symptoms of somebody -- somebody
 00:23:07 15 exhibiting, you know, self-destructive behavior
 00:23:18 16 or ideation.
 00:23:29 17 Q. Was anything conveyed to you during
 00:23:40 18 the training about any state, New York State
 00:23:51 19 regulations or standards?
 00:24:02 20 A. That, I don't recall.
 00:24:13 21 Q. Do you recall if anything was
 00:24:24 22 discussed at the training about the Suicide
 00:24:35 23 Prevention Guidelines Screening form?
 00:24:46 24 A. Yes.
 00:24:57 25 Q. What was discussed about that?

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1 *Peter Clarke*
 00:19:07 2 A. About the numbers adding -- you
 00:19:18 3 know, the quantitative value of the numbers, you
 00:19:29 4 know, adding up; and how if it went up over a
 00:19:40 5 specific amount, then the officer, the sergeant
 00:19:51 6 in charge, would have to be notified.
 00:20:02 7 Q. Do you recall that there was that
 00:20:13 8 suicide screening form that was administered as
 00:20:24 9 part of the intake process?
 00:20:35 10 A. Yes.
 00:20:46 11 Q. And on that form, do you recall that
 00:20:57 12 there were shaded areas, shaded boxes, if you
 00:21:08 13 will?
 00:21:19 14 A. Yes.
 00:21:30 15 Q. Do you recall if the suicide
 00:21:41 16 training you attended in November of '06 went
 00:21:52 17 over anything that you were supposed to do if the
 00:22:03 18 shaded box was checked?
 00:22:14 19 A. I don't know. I can't recall.
 00:22:25 20 Q. Do you recall what the number was in
 00:22:36 21 terms of when you were supposed to notify the
 00:22:47 22 sergeant?
 00:22:58 23 A. I don't recall that.
 00:23:09 24 Q. Other than notification to a
 00:23:20 25 sergeant, did the training provide you with any

COMPU-TRAN SHORTHAND REPORTING

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1 *Peter Clarke*
 00:23:31 2 other things that you were supposed to do as a
 00:23:42 3 nurse if, on the screening guideline form, the
 00:23:53 4 score went over a certain number?
 00:24:04 5 A. Place -- place the inmate on a q. 15
 00:24:15 6 or a constant observation.
 00:24:26 7 Q. What is a q. 15?
 00:24:37 8 A. That somebody would check him every
 00:24:48 9 15 minutes.
 00:24:59 10 Q. What is a q. 15?
 00:25:10 11 A. Every 15 minutes, that somebody
 00:25:21 12 would check on them.
 00:25:32 13 Q. Was anything explained to you as to
 00:25:43 14 under what circumstances the 15-minute versus the
 00:25:54 15 constant --
 00:26:05 16 A. Yes.
 00:26:16 17 Q. -- would be used?
 00:26:27 18 A. Um-hum.
 00:26:38 19 Q. What did they tell you about that?
 00:26:49 20 A. I don't recall.
 00:27:00 21 MR. COON: Just one minute,
 00:27:11 22 Kim.
 00:27:22 23 MS. BERG: Sure.
 00:27:33 24 (Off-the-record discussion)
 00:27:44 25 Q. Do you recall if anything was given

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1 *Peter Clarke*
 2 to you at the training - pamphlets, rules,
 3 regulations; anything else?
 4 A. Yes.
 5 Q. What did you receive?
 6 A. Paperwork pertaining to what was
 7 gone over in the class.
 8 Q. Do you recall what the paperwork
 9 consisted of?
 10 A. No.
 11 Q. Was it a manual, if you know?
 12 A. I don't recall.
 13 Q. Was it specific to nurses, or did it
 14 involve correction officers, as well?
 15 MR. COON: You're talking
 16 about the paperwork --
 17 MS. BERG: Yes, the
 18 paperwork.
 19 MR. COON: -- at the training?
 20 MS. BERG: Right.
 21 A. I can't recall.
 22 Q. Can you tell me if you've ever seen
 23 Exhibit 9 before? That's an officer's handbook.
 24 (Handing)
 25 MR. COON: Look through it,
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1 *Peter Clarke*
 2 Peter; see if you recognize
 3 it.
 4 (Witness complies)
 5 A. It does look familiar, yes.
 6 Q. Do you recall if you received that
 7 at the time of the suicide-prevention training?
 8 A. I don't know if I just looked at it
 9 there or was given a copy of it; I don't recall.
 10 Q. Just take a look at Page 17. It's
 11 towards the back.
 12 A. (Witness complies)
 13 Q. Do you see, under the section which
 14 says "Supervision" at the bottom, "According to
 15 the commissioner, the Commission's regulations..."
 16 Do you see that?
 17 A. Yes.
 18 Q. That section which states that,
 19 "Constant supervision should be instituted for a
 20 high-risk inmate," do you see that part?
 21 A. Yes.
 22 Q. Was that covered with you during the
 23 suicide-prevention training that you attended in
 24 November of '06?
 25 A. Yes.
 COMPU-TRAN SHORTHAND REPORTING

1 *Peter Clarke*
 2 Q. And do you recall if it was phrased
 3 that way; namely, that constant supervision had
 4 to be instituted?
 5 A. I don't recall.
 6 Q. Prior to the suicide-prevention
 7 training that you went to in November of 2006,
 8 were you ever instructed about what to do if an
 9 inmate scored a certain number on the suicide-
 10 prevention form?
 11 A. No.
 12 Q. Were you aware of any policies or
 13 procedures, prior to November of 2006, regarding
 14 what level, in terms of total score, some action
 15 needed to be taken at?
 16 A. I knew that some action had to be
 17 taken, but I didn't -- I didn't know what because
 18 it clearly was a correction officer's
 19 responsibility.
 20 Q. And who told you that it was a
 21 correction officer's responsibility?
 22 A. They were the ones who did it. I
 23 never was trained in it prior to that class.
 24 Q. Prior to November of 2006, did you
 25 ever receive any direction, instruction,
 COMPU-TRAN SHORTHAND REPORTING

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1 *Peter Clarke*
 2 anything, written or verbal, about what to do if
 3 an inmate scores eight or higher on the suicide-
 4 prevention form?
 5 A. No.
 6 Q. Did you ever receive any
 7 instruction, training, verbal or written
 8 guidelines on what to do if an inmate has a
 9 shaded box checked on the form? Again, prior to
 10 November of 2006.
 11 A. No.
 12 Q. Did you ever have, as a nurse, the
 13 responsibility for administering the suicide-
 14 screening guideline form?
 15 A. No.
 16 Q. When you worked at the Putnam County
 17 Correctional Facility, did you work the same
 18 shift, or did it rotate?
 19 A. I worked different shifts.
 20 Q. Day and night?
 21 A. Day, evening, and night.
 22 Q. And were there any policies or
 23 procedures with respect to communicating with
 24 correction officers during the intake process
 25 about your observations of an incoming inmate?
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Peter Clarke

1 A. Wait. The last part, I didn't get.

2 Q. An incoming inmate --

3 A. Right.

4 Q. In other words, during the booking

5 process --

6 A. Right.

7 Q. -- you said that you would be

8 responsible to go up and evaluate the incoming

9 inmate; correct?

10 A. Right.

11 Q. What did your evaluation consist of?

12 A. If they had a physical complaint, I

13 would take their vital signs. I would observe

14 them; you know, take their vital signs.

15 Q. Anything else? Let's assume there

16 was no physical complaint; what did your

17 evaluation consist of?

18 A. Talking to the inmate, asking him if

19 he had any medical problems.

20 Q. Anything else?

21 A. Ask him if he was on any medication.

22 Q. Anything else?

23 A. No. No, that's it.

24 Q. In terms of your evaluation during

25 COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1 the booking process, how would you know that an

2 incoming inmate was there for you to evaluate?

3 A. I would receive a call.

4 Q. From?

5 A. From booking.

6 Q. So, somebody within the facility

7 would call you to come up and see the inmate?

8 A. Yes; most likely, the booking

9 officer.

10 Q. And in terms of procedures and

11 policies, were you aware of any time frame within

12 which you had to go see the inmate?

13 A. I mean, I always -- when I would get

14 a call, I would immediately go upstairs.

15 Q. Did anybody tell you that you ever

16 had -- in terms of timing, that you had to go

17 within four hours of receiving notification?

18 A. I don't -- I don't recall, but...

19 Q. In practice, though, you said that

20 you would respond immediately and go right there?

21 A. Yes.

22 Q. And were you notified in every case

23 that an incoming inmate was being processed?

24 A. Yes.

25 COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1 Q. Were you aware of any policies or

2 procedures which permitted you not to go and

3 evaluate an incoming inmate?

4 A. Somebody who was going to be

5 admitted to the jail?

6 Q. Yes.

7 A. No.

8 Q. And in terms of your evaluation,

9 were you ever provided with any policies or

10 procedures that indicated you were required to

11 take vital signs for every incoming inmate?

12 A. No.

13 Q. Do you recall ever receiving any

14 kind of staff memos from Mr. DiMattio or the

15 health-services administrator?

16 A. Concerning...?

17 Q. Anything involving your nursing

18 duties.

19 A. Wait, wait, wait. Wait one second.

20 Wait, wait, wait. Just back up one question.

21 Q. Yes. Do you want me to rephrase it?

22 A. No, not that one. The prior

23 question about the vital signs.

24 Q. Yes.

25 COMPU-TRAN SHORTHAND REPORTING

24

Peter Clarke

1 A. At one point, that -- we were told

2 that the vital signs were taken on all incoming.

3 Q. Do you recall when that was?

4 A. No.

5 Q. Do you remember if it was about the

6 same time that you received the suicide-

7 prevention training?

8 A. Yeah, I would -- yes.

9 Q. And do you remember if you were told

10 that verbally or in writing?

11 A. I would think that it would be in

12 writing, but it was also verbal.

13 Q. Do you recall if you ever saw

14 Exhibit 24, which is a November 27, 2006, memo

15 from Rich to the staff? (Handing)

16 A. (Witness peruses exhibit)

17 Q. Did you ever see that?

18 A. I don't recall. I mean, I know the

19 stuff that's on here, but I don't recall

20 specifically.

21 Q. The fourth paragraph refers to vital

22 signs being done on all incoming inmates.

23 A. Yes.

24 Q. Do you recall if this was in or

25 COMPU-TRAN SHORTHAND REPORTING

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1 *Peter Clarke*
 00:09:56 2 about the same time that you were verbally told?
 00:09:58 3 A. I can't -- I can't recall.
 00:10:00 4 Q. Prior to this memo, was it your
 00:10:02 5 practice to do vital signs only if the inmate
 00:10:04 6 expressed a physical complaint?
 00:10:06 7 A. Well, not -- not only if the inmate
 00:10:08 8 expressed a physical complaint, but if they
 00:10:10 9 didn't look well, you know, if... I would do
 00:10:12 10 vital signs.
 00:10:14 11 Q. So, you would do vital signs if the
 00:10:16 12 inmate expressed a physical complaint or if the
 00:10:18 13 inmate, in your view, looked ill?
 00:10:20 14 A. Yes.
 00:10:22 15 Q. And are there any other
 00:10:24 16 circumstances that you would do vital signs as a
 00:10:26 17 matter of your practice?
 00:10:28 18 A. On all inmates? No.
 00:10:30 19 Q. Also as part of this memo it says,
 00:10:32 20 "If there are any concerns at booking related to
 00:10:34 21 mental health or medical, let the shift sergeant
 00:10:36 22 know ASAP."
 00:10:38 23 Was that always the policy, or was
 00:10:40 24 that new in November of '06?
 00:10:42 25 A. I mean, I would -- I don't know
 COMPU-TRAN SHORTHAND REPORTING

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1 *Peter Clarke*
 00:10:44 2 about the policy, but I would tell them, anyway.
 00:10:46 3 I mean, you know, it wasn't...
 00:10:48 4 Q. Did you make those communications to
 00:10:50 5 the sergeant, or to the correction officer, or
 00:10:52 6 both?
 00:10:54 7 A. You mean, always or...?
 00:10:56 8 Q. Yes.
 00:10:58 9 A. Probably to both.
 00:11:00 10 Q. Do you recall? You're saying
 00:11:02 11 "probably." I don't want you to guess.
 00:11:04 12 A. Right. Every single time, I can't --
 00:11:06 13 I can't -- you know, on hundreds of inmates that
 00:11:08 14 I saw coming in, I can't specifically say every
 00:11:10 15 single time I...
 00:11:12 16 Q. Were you ever aware of any situation
 00:11:14 17 where you were required to notify the sergeant,
 00:11:16 18 supervisor, if you will, about an inmate who
 00:11:18 19 scored eight or higher on the screening form, the
 00:11:20 20 suicide screening form?
 00:11:22 21 A. When? I mean, prior to -- prior to
 00:11:24 22 this?
 00:11:26 23 Q. At any point.
 00:11:28 24 A. Yes; after the suicide prevention.
 00:11:30 25 Q. Meaning, after your November
 COMPU-TRAN SHORTHAND REPORTING

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1 *Peter Clarke*
 00:11:32 2 training --
 00:11:34 3 A. Right.
 00:11:36 4 Q. -- November, 2006, training?
 00:11:38 5 A. Right.
 00:11:40 6 Q. Prior to that training, did anybody
 00:11:42 7 ever tell you that if you saw on the suicide
 00:11:44 8 screening form the inmate had a score of eight or
 00:11:46 9 higher, you were supposed to report that to
 00:11:48 10 anyone?
 00:11:50 11 A. No.
 00:11:52 12 Q. Did anybody ever indicate to you,
 00:11:54 13 prior to November of 2006, that you as a nurse
 00:11:56 14 had any responsibility for ensuring that some
 00:11:58 15 level of heightened supervision was implemented
 00:12:00 16 for an inmate who had a score of eight or higher?
 00:12:02 17 MR. COON: Objection to the
 00:12:04 18 form.
 00:12:06 19 You can answer.
 00:12:08 20 A. No.
 00:12:10 21 Q. Prior to November of 2006, were you
 00:12:12 22 ever instructed or told that if an inmate had any
 00:12:14 23 shaded box checked on that suicide screening
 00:12:16 24 form, that you as a nurse had a responsibility
 00:12:18 25 for making sure that some heightened level of
 COMPU-TRAN SHORTHAND REPORTING

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1 *Peter Clarke*
 00:12:20 2 supervision was instituted?
 00:12:22 3 MR. COON: Objection to form.
 00:12:24 4 You can answer.
 00:12:26 5 A. No.
 00:12:28 6 Q. Were you aware of any policies or
 00:12:30 7 procedures with respect to what you were required
 00:12:32 8 to do at intake?
 00:12:34 9 A. I'm sorry; can you just...?
 00:12:36 10 Q. Sure. As part of the intake
 00:12:38 11 process --
 00:12:40 12 A. Right.
 00:12:42 13 Q. -- were there any policies or
 00:12:44 14 procedures, which in writing, detailed what you
 00:12:46 15 were required to do?
 00:12:48 16 A. This -- this form here. (Indicating)
 00:12:50 17 Q. Okay. Exhibit 24. Anything else?
 00:12:52 18 A. I don't recall.
 00:12:54 19 Q. You indicated that you did hundreds
 00:12:56 20 of bookings.
 00:12:58 21 A. Right.
 00:13:00 22 Q. Is that fair to say, it's accurate?
 00:13:02 23 A. Right.
 00:13:04 24 MR. COON: Well, I don't
 00:13:06 25 think he did bookings; he saw them.
 COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
00:31:25 2 Q. Well, you were involved with the
00:31:31 3 evaluation of incoming inmates --
00:31:34 4 A. Right.
00:31:37 5 Q. -- on hundreds of occasions?
00:31:40 6 A. On a hundred.
00:31:43 7 Q. A hundred?
00:31:46 8 A. Right. I'm just estimating.
00:31:49 9 Q. And in your experience at the Putnam
00:31:52 10 County Correctional Facility, did you observe
00:31:55 11 inmates who came in either appearing to be under
00:31:58 12 the influence of drugs or alcohol, or reporting
00:32:01 13 that they were?
00:32:04 14 A. Yes.
00:32:07 15 Q. How often did that happen out of
00:32:10 16 those approximately hundred times?
00:32:13 17 A. I can't...
00:32:16 18 Q. More than half?
00:32:19 19 A. Probably less; less than half.
00:32:22 20 Q. Less than half?
00:32:25 21 A. Um-hum.
00:32:28 22 Q. And in terms of inmates who either
00:32:31 23 reported a history of drug or alcohol use or who
00:32:34 24 appeared to be under the influence, were you
00:32:37 25 aware of any policies or procedures prior to

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
00:32:39 2 November, 2006, about how to handle those
00:32:42 3 inmates?
00:32:45 4 A. How to handle?
00:32:48 5 Q. Yes; what you needed to do.
00:32:51 6 A. I don't recall.
00:32:54 7 Q. Did you receive any guidance in or
00:32:57 8 about November of 2006 about what to do when an
00:33:00 9 inmate reported a history of drug or alcohol use?
00:33:03 10 A. I don't recall.
00:33:06 11 Q. Was it part of the suicide-
00:33:09 12 prevention training at all?
00:33:12 13 A. Yes, it is part of the suicide
00:33:15 14 prevention.
00:33:18 15 Q. So, in November of 2006, did
00:33:21 16 Spinelli or the other officer say anything,
00:33:24 17 convey anything about individuals who had a
00:33:27 18 history of drug or alcohol use?
00:33:30 19 A. I believe that was -- that was
00:33:33 20 there, yes.
00:33:36 21 Q. Do you recall what was said in that
00:33:39 22 regard, the gist of it?
00:33:42 23 A. I can't -- I can't recall.
00:33:45 24 Q. Did anybody ever tell you that you,
00:33:48 25 as the nurse, were required to ask questions or

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
00:33:51 2 get information about an individual's frequency
00:33:54 3 of drug use?
00:33:57 4 A. I'm trying to think. I don't
00:34:00 5 recall.
00:34:03 6 Q. Or amount of drug use?
00:34:06 7 A. I can't remember.
00:34:09 8 Q. Did anybody ever indicate to you
00:34:12 9 that you were required to ask when the last time
00:34:15 10 was that an individual used drugs?
00:34:18 11 A. Can you just say that again?
00:34:21 12 Q. Sure. Did anybody ever tell you
00:34:24 13 policies or procedures required you to ask
00:34:27 14 individuals coming into the facility when the
00:34:30 15 last time was that they used drugs?
00:34:33 16 A. I believe that was part of the
00:34:36 17 policy.
00:34:39 18 Q. And you indicated that the
00:34:42 19 correction officers would administer the forms;
00:34:45 20 correct?
00:34:48 21 A. Yes.
00:34:51 22 Q. What, if any, requirement did you,
00:34:54 23 as a nurse, have with respect to those forms?
00:34:57 24 Did you have to do anything in terms of
00:35:00 25 completing any part of it?

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
00:35:03 2 A. We would sign that it was -- that it
00:35:06 3 was done.
00:35:09 4 Q. What do you mean, you would sign
00:35:12 5 that it was done?
00:35:15 6 A. On the right lower-hand corner, we
00:35:18 7 would date and put our signature on.
00:35:21 8 Q. And what was your understanding as
00:35:24 9 to what you were supposed to do, if anything,
00:35:27 10 with that form prior to dating and signing it?
00:35:30 11 A. Just checking that it was done, it
00:35:33 12 was filled out.
00:35:36 13 Q. Were you ever told of any policies
00:35:39 14 or procedures that, when you reviewed those
00:35:42 15 forms, the medical and the suicide screening
00:35:45 16 forms, whether you were supposed to, as the
00:35:48 17 nurse, look for certain things so that you could
00:35:51 18 take further action?
00:35:54 19 A. On the medical -- I read the
00:35:57 20 medical, yes. But prior to November, the other
00:36:00 21 thing was the responsibility of the -- you know,
00:36:03 22 of the booking officer.
00:36:06 23 Q. So, prior to November of 2006, did
00:36:09 24 you have a responsibility to review the suicide
00:36:12 25 screening part of the packet?

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
00:00:06 2 A. No.
00:00:08 3 Q. When you reviewed the medical part,
00:00:10 4 was the suicide screening part of the packet?
00:00:12 5 A. Say this again.
00:00:14 6 Q. When you reviewed the medical forms --
00:00:16 7 A. Right.
00:00:18 8 Q. -- which you said you had to sign
00:00:20 9 and date --
00:00:22 10 A. Right.
00:00:24 11 Q. -- was the suicide screening form
00:00:26 12 part of that packet?
00:00:28 13 A. Sometimes you would get one before
00:00:30 14 you got the other. It wouldn't be complete. You
00:00:32 15 wouldn't get them at the same time.
00:00:34 16 Q. If you got one before the other, did
00:00:36 17 you receive both, in any event, before you left
00:00:38 18 booking?
00:00:40 19 A. Yes. Usually -- not in booking.
00:00:42 20 After booking, after they went downstairs -- they
00:00:44 21 would complete it upstairs, and then bring it
00:00:46 22 downstairs.
00:00:48 23 Q. So, they would bring it to medical?
00:00:50 24 A. Yes.
00:00:52 25 Q. And that would be a correction

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
00:00:54 2 officer in booking?
00:00:56 3 A. Yes.
00:00:58 4 Q. And what would they do with it once
00:01:00 5 they brought it to medical?
00:01:02 6 A. They would give it -- you know, give
00:01:04 7 it to us.
00:01:06 8 Q. And at that point in time, were you
00:01:08 9 required to do anything other than file it in the
00:01:10 10 inmate's medical file?
00:01:12 11 A. I would review it.
00:01:14 12 Q. Is that when you would sign and date
00:01:16 13 it?
00:01:18 14 A. Yes.
00:01:20 15 Q. And on the occasions that they would
00:01:22 16 bring it down to medical, did you review the
00:01:24 17 suicide screening forms prior to November of '06?
00:01:26 18 A. No.
00:01:28 19 Q. Were you required to by any policy
00:01:30 20 or procedure as far you knew --
00:01:32 21 A. No.
00:01:34 22 Q. -- prior to November of '06?
00:01:36 23 A. No.
00:01:38 24 MR. KLEINBERG: Can you read
00:01:40 25 back the last question.

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

(Record read)

1
00:00:54 2
00:00:56 3 Q. Let me show you what was previously
00:00:58 4 marked as Exhibit 7. There's some handwriting on
00:01:00 5 that; but the form, itself, do you recognize that
00:01:02 6 as part of the booking or screening form that was
00:01:04 7 administered to the incoming inmates? (Handing)
00:01:06 8 A. Yes.
00:01:08 9 Q. And did you ever see this particular
00:01:10 10 form which pertains to Spencer Sinkov?
00:01:12 11 A. Yes; I signed it.
00:01:14 12 Q. Do you have a recollection of it as
00:01:16 13 you sit here today, other than the fact that your
00:01:18 14 signature is on there?
00:01:20 15 A. A recollection that I've seen it
00:01:22 16 before?
00:01:24 17 Q. Yes: In other words, if I took that
00:01:26 18 form away, do you have an independent memory --
00:01:28 19 A. No.
00:01:30 20 Q. -- of actually seeing it?
00:01:32 21 A. No.
00:01:34 22 Q. Do you recall, for example, if you
00:01:36 23 received it in booking, or if it was brought to
00:01:38 24 medical?
00:01:40 25 A. It was brought to medical.

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
00:01:42 2 Q. How do you know that?
00:01:44 3 A. Because I remember I got this later.
00:01:46 4 Q. Did you go to booking when Spencer
00:01:48 5 Sinkov came into the facility?
00:01:50 6 A. Yes.
00:01:52 7 Q. And at that point in time, did you
00:01:54 8 review any documents that were completed, or in
00:01:56 9 the process of being completed by the correction
00:01:58 10 officers?
00:02:00 11 A. No.
00:02:02 12 Q. Did you ever see Exhibit 3, which is
00:02:04 13 the Suicide Prevention Screening Guidelines that
00:02:06 14 were administered to Spencer (Handing)
00:02:08 15 A. (Witness peruses exhibit)
00:02:10 16 I must've saw it that day; but I
00:02:12 17 don't -- as again, I don't recall it, though.
00:02:14 18 Q. Do you recall if you reviewed it
00:02:16 19 that day? Meaning, May 20th, 2006.
00:02:18 20 A. I would have just looked and saw
00:02:20 21 that it was -- it was done; it was all signed.
00:02:22 22 Q. On the bottom?
00:02:24 23 A. Yes.
00:02:26 24 Q. And in terms of your looking at that
00:02:28 25 to make sure it was all signed on the bottom, was

COMPU-TRAN SHORTHAND REPORTING

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1 Peter Clarke

00:47:27 2 there anything else that you did other than to
00:47:34 3 check to see that it was signed?

00:47:38 4 A. No.

00:47:41 5 Q. Prior to November of 2006, were you
00:47:48 6 aware of anything that you, as a nurse, were
00:47:55 7 required to do upon seeing scores such as ten in
00:48:02 8 the total of columns?

00:48:05 9 A. No.

00:48:08 10 Q. Were you, prior to November of '06,
00:48:15 11 aware of anything you were supposed to do as a
00:48:22 12 nurse in light of the fact that three shaded
00:48:29 13 boxes were checked?

00:48:32 14 A. No.

00:48:35 15 Q. Did you ever see Exhibit 30, which
00:48:42 16 is an AmeriCor Policy Manual dated November,
00:48:49 17 2004? (Handing)

00:48:52 18 A. Yes.

00:48:55 19 Q. Do you recall if you saw that in the
00:49:02 20 format it's in there? Meaning, a series of
00:49:09 21 documents in one.

00:49:12 22 A. Yes; in a binder.

00:49:15 23 Q. And under what circumstances did you
00:49:22 24 get that? Was it part of a training? Was it
00:49:29 25 just handed out? Something else?

COMPU-TRAN SHORTHAND REPORTING

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1 Peter Clarke

00:49:31 2 A. It was in -- I believe it was handed
00:49:38 3 out, plus it was in the -- it was there. We had
00:49:45 4 access to it in the facility.

00:49:48 5 Q. Was anything pointed out to you
00:49:55 6 specifically in terms of those policies or
00:50:02 7 procedures?

00:50:05 8 A. Anything...?

00:50:08 9 Q. Pointed out to you, anything that
00:50:15 10 you should focus on or look at in
00:50:22 11 particular?

00:50:25 12 MR. COON: You have to
00:50:32 13 answer, Peter?

00:50:35 14 Q. No?

00:50:38 15 A. I don't recall. No, I don't
00:50:45 16 understand the question, you know. I mean, it's --

00:50:48 17 Q. Okay, that's fine. In other words,
00:50:55 18 when this was given to you, Exhibit 30 --

00:50:58 19 A. Right.

00:51:01 20 Q. -- did anybody bring to your
00:51:08 21 attention any specific policy in here --

00:51:11 22 A. Right.

00:51:14 23 Q. -- that they wanted you to be aware
00:51:21 24 of?

00:51:24 25 A. Not that I could recall.

COMPU-TRAN SHORTHAND REPORTING

1 Peter Clarke

00:44:15 2 Q. Were you told anything about whether
00:44:20 3 or not you needed to review all of those policies
00:44:25 4 or anything else?

00:44:28 5 A. We did review them.

00:44:31 6 Q. Did you have to sign for it in any
00:44:36 7 way?

00:44:39 8 A. I don't recall.

00:44:42 9 Q. Did anybody ever indicate to you
00:44:49 10 that policies that are contained in Exhibit 30
00:44:56 11 did not apply to the nursing staff?

00:45:03 12 A. Again, I don't -- I don't recall.

00:45:06 13 Q. Take a look at Exhibit 28, which is
00:45:13 14 an AmeriCor, Inc. Procedure Manual, with the date
00:45:20 15 2003. Did you ever see that? (Handing)

00:45:23 16 A. Yes. Yes, I've seen this.

00:45:26 17 Q. Do you recall when for the first
00:45:33 18 time?

00:45:36 19 A. It's -- when I was first hired.

00:45:39 20 Q. And was that also maintained in the
00:45:46 21 facility?

00:45:49 22 A. Yes.

00:45:52 23 Q. Was it part of the same binder as
00:45:59 24 the Policy Manual, Exhibit 30?

00:46:02 25 A. No, it wasn't. It was in a separate --

COMPU-TRAN SHORTHAND REPORTING

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1 Peter Clarke

00:46:05 2 separate binder.

00:46:08 3 Q. And did anybody ever tell you that
00:46:15 4 the procedures in there did not apply to the
00:46:22 5 nursing staff in any way?

00:46:25 6 A. No.

00:46:28 7 Q. Take a look at Exhibit 30, the 2004.
00:46:35 8 (Handing) Do you see on the bottom where it has
00:46:42 9 numbers? Turn to the page that says 421.

00:46:45 10 A. (Witness complies)

00:46:48 11 Q. It's a two-page policy regarding
00:46:55 12 Receiving Screening?

00:46:58 13 A. Yes.

00:47:01 14 Q. Did you ever see that before today?

00:47:04 15 A. This -- this was in the book, yes.
00:47:11 16 I saw it.

00:47:14 17 Q. In terms of the policy, it says in
00:47:21 18 the first sentence, "All inmates will be given a
00:47:28 19 Receiving Screening by health care or health-
00:47:35 20 trained personnel immediately upon their arrival
00:47:42 21 at the facility."

00:47:45 22 Do you see that part?

00:47:48 23 A. Is that the first...?

00:47:51 24 Q. The first line that I just read.

00:47:54 25 A. Yes.

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Peter Clarke

Q. About halfway down it says, "At a minimum the Receiving Screening will include inquiry into:" And then there are a number of numbered paragraphs.

A. Um-hum.

Q. Do you see that?

A. Right.

Q. On the next page, number four says, in terms of what needs to be inquired into, "Use of alcohol and other drugs, including types of drugs used, mode of use, amount used, frequency used, date or time of last use and a history of problems which may have occurred after ceasing use."

Do you see that?

A. Yes.

Q. At any point in time prior to November of 2006, were you aware of any policy AmeriCor had which required you, as an AmeriCor employee, to make those inquiries about types of drugs, mode, frequency, et cetera?

A. Yes.

Q. Did you do that with respect to all incoming inmates?

A. Yes.

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

Q. Do you recall Spencer Sinkov coming into the facility on or about May 20th, 2006?

A. Yes.

Q. Did you specifically inquire of him about anything concerning types of drugs, mode of use, amount used, frequency used, history of problems, as noted in this policy?

A. He offered the information himself, yes.

Q. What did he tell you?

A. About the heroin. He said he last used 24 hours ago.

Q. Did he say anything about how much he used?

A. No.

Q. Did he say with what frequency he used?

A. No.

Q. Did he say anything about whether or not he had any problems when he stopped use?

A. No.

Q. Did you ask him any of those questions?

A. No.

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Peter Clarke

Q. Based on your review of this policy, is it, therefore, your testimony here today that you failed to abide by AmeriCor's policy as noted in this manual, Page 421 to 422?

MR. COON: Note my objection.

A. No.

Q. Well, if it's required of you and you didn't do it, how is it that you didn't violate the policy?

A. Because in speaking with the inmate, he -- he said he had no medical problems, and he said he last used heroin 24 hours ago.

And I said, how do you feel?

He said, I feel fine.

I said, you don't feel sick at all?

Nothing.

And I told him about, you know, medical. You know, if you feel sick, you know, we're here; just, you know, tell the officers that, you know, you want to see us.

Q. So, at that time in May of '06, did you have an understanding that at minimum, you were required to ask him about other things, such

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

as how much he used or the frequency of his use?

A. Yes.

Q. And you didn't do that?

A. I didn't do it; I spoke to the inmate.

Q. And in terms of the other things noted in this policy it says at minimum you're supposed to make an observation of: Number four: "Condition of the skin." And one of the specific things under that paragraph is, "Needle marks or other indications of drug abuse."

Were you aware of that policy on or about May 20th, 2006?

A. Yes.

Q. Did you ever make any observations of Spencer's skin?

A. No.

Q. Did you ever take a look to see if he had any needle marks or other indications of drug use?

A. No, because he offered -- you know, he said that he did a bag of dope within 24 hours.

Q. But did he tell you how he used it?

A. I just -- for some reason, I don't

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
00:00:30 2 know whether -- I just thought that he snorted it.
00:00:30 3 Q. That was your assumption?
00:00:30 4 A. Yes.
00:00:30 5 Q. Because you never checked his arms;
00:00:30 6 correct?
00:00:30 7 A. I don't know if he told me that
00:00:30 8 or... No, I didn't check his arms.
00:00:30 9 Q. Did you understand that on May 20,
00:00:30 10 2006, you, as a nurse, were obligated by AmeriCor
00:00:30 11 policy to check for things like track marks?
00:00:30 12 MR. COON: Objection to the
00:00:30 13 form of the question.
00:00:30 14 A. Yes.
00:00:30 15 Q. And you didn't do that?
00:00:30 16 A. Right.
00:00:30 17 Q. Did anybody ever counsel you or
00:00:30 18 discipline you for violating AmeriCor policy?
00:00:30 19 MR. COON: Objection.
00:00:30 20 A. No.
00:00:30 21 Q. Did anybody ever ask you any
00:00:30 22 questions -- prior to today, of course -- about
00:00:30 23 whether or not you abided by that policy?
00:00:30 24 MR. COON: Objection.
00:00:30 25 A. No.

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
00:01:44 2 Q. Are you familiar with a document
00:01:44 3 called the Shift Report form?
00:01:44 4 A. Yes.
00:01:44 5 Q. And as a matter of policy, were you
00:01:44 6 required to complete one on each shift that you
00:01:44 7 worked?
00:01:44 8 A. Yes.
00:01:44 9 Q. Do you recall if you completed one
00:01:44 10 on the shift you worked for May 20th, 2006?
00:01:44 11 A. I don't recall.
00:01:44 12 Q. What was your understanding in
00:01:44 13 May of '06 as to what you were required to put on
00:01:44 14 the Shift Report form?
00:01:44 15 A. New inmates coming in, blood drawn,
00:01:44 16 any problems in the shift.
00:01:44 17 Q. Were you required to note in any way
00:01:44 18 on the Shift Report if an inmate was placed on a
00:01:44 19 15-minute watch or a constant supervision?
00:01:44 20 A. Yes.
00:01:44 21 Q. And do you recall if you did that in
00:01:44 22 Spencer's case?
00:01:44 23 A. I don't recall.
00:01:44 24 Q. After you went off shift, do you
00:01:44 25 recall that Susan Waters came on that day?

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
00:00:30 2 A. She relieved me that morning, yes.
00:00:30 3 Q. Did you have any conversations with
00:00:30 4 her at that time about what happened on your
00:00:30 5 shift?
00:00:30 6 A. Yes.
00:00:30 7 Q. Do you recall if you said anything
00:00:30 8 to her regarding Spencer?
00:00:30 9 A. I don't recall, but I'm sure I --
00:00:30 10 you know, I mentioned him.
00:00:30 11 Q. You don't have a recollection of
00:00:30 12 doing so, though?
00:00:30 13 A. No.
00:00:30 14 Q. Did you provide her with the Shift
00:00:30 15 Report that you had completed?
00:00:30 16 A. I think so.
00:00:30 17 Q. Do you remember doing that?
00:00:30 18 A. I did it every shift.
00:00:30 19 Q. Okay, but do you have a recollection
00:00:30 20 of doing it?
00:00:30 21 A. That particular day?
00:00:30 22 Q. Yes.
00:00:30 23 A. No.
00:00:30 24 Q. Take a look at the 2003 Policy
00:00:30 25 Manual, Exhibit 28. Procedure Manual, I should

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Peter Clarke

1
00:01:20 2 say.
00:01:20 3 MR. COON: Procedure Manual
00:01:20 4 or Policy?
00:01:20 5 MS. BERG: Procedure Manual,
00:01:20 6 2003.
00:01:20 7 Q. Go to the page that's Bates stamped
00:01:20 8 494.
00:01:20 9 A. (Witness complies)
00:01:20 10 Q. Did you ever see that procedure,
00:01:20 11 Receiving Screening.
00:01:20 12 A. (Witness peruses record) It looks
00:01:20 13 familiar.
00:01:20 14 Q. At the bottom of Page 494, it says,
00:01:20 15 "If the inmate is medically stable but requires
00:01:20 16 medical follow up - e.g., intoxicated, but
00:01:20 17 subject to going into withdrawal - the nurse will
00:01:20 18 accept the inmate; document the medical condition
00:01:20 19 in the inmate's medical record; and, depending on
00:01:20 20 the inmate's medical problem, either contact the
00:01:20 21 physician for orders or schedule the inmate to be
00:01:20 22 seen at the next physician's sick call.
00:01:20 23 Do you see that?
00:01:20 24 A. Yes.
00:01:20 25 Q. With respect to Spencer Sinkov, did

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Peter Clarke

1
00:54:01 2 you contact the physician for orders?
00:54:09 3 A. No.
00:54:16 4 Q. Did you schedule him to be seen at
00:54:24 5 the next physician's sick call?
00:54:31 6 A. No.
00:54:39 7 Q. Did you ever indicate to anyone in
00:54:47 8 any shape or form that follow up was necessary or
00:54:55 9 monitoring was necessary with respect to Spencer?
00:55:03 10 A. I don't recall.
00:55:11 11 Q. Do you recall communicating that to
00:55:19 12 Susan Waters at any time?
00:55:27 13 A. I don't recall.
00:55:35 14 Q. Did you ever monitor or follow up on
00:55:43 15 Spencer at any point?
00:55:51 16 A. No.
00:55:59 17 Q. There's reference in this Procedure
00:56:07 18 Manual, Page 495, to a History and Physical
00:56:15 19 logbook.
00:56:23 20 Do you see that? It's the last five
00:56:31 21 words on Page 495.
00:56:39 22 A. Yes.
00:56:47 23 Q. Do you know what the History and
00:56:55 24 Physical logbook is?
00:57:03 25 A. It's a book where the PPDs go.

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
00:57:10 2 Q. What is that?
00:57:18 3 A. You know, for tuberculosis.
00:57:26 4 Q. Were you ever told of any
00:57:34 5 requirement that the Receiving Screening that you
00:57:42 6 do is required to be documented in that History
00:57:50 7 and Physical logbook?
00:57:58 8 A. No.
00:58:06 9 Q. Did you ever document Receiving
00:58:14 10 Screenings in the History and Physical logbook as
00:58:22 11 a matter of your practice?
00:58:30 12 A. No.
00:58:38 13 Q. One of the documents that you, as a
00:58:46 14 nurse, were responsible for completing were
00:58:54 15 called Progress Notes; correct?
00:59:02 16 A. Correct.
00:59:10 17 Q. What was your understanding of what
00:59:18 18 was supposed to go into a Progress Note?
00:59:26 19 A. The patient's/inmate's complaints,
00:59:34 20 how he looks, signs and symptoms.
00:59:42 21 Q. Anything else?
00:59:50 22 A. If he was placed on 15-minute or
00:59:58 23 constant watch, that would be put on there.
00:60:06 24 Q. And if you did vitals, would you
00:60:14 25 note it in there?

COMPU-TRAN SHORTHAND REPORTING

Peter Clarke

1
00:57:12 2 A. Yes.
00:57:20 3 Q. And in terms of the Progress Notes
00:57:28 4 and the things you just listed that were supposed
00:57:36 5 to go into the Progress Notes, those things were
00:57:44 6 listed from when you started with AmeriCor until
00:57:52 7 you stopped working there?
00:58:00 8 A. Yes.
00:58:08 9 Q. Was there any change in any policies
00:58:16 10 or procedures with respect to what you were
00:58:24 11 supposed to put in the Progress Notes at any
00:58:32 12 time?
00:58:40 13 A. Just adding the vital signs for all
00:58:48 14 patients -- all inmates.
00:58:56 15 Q. That would have been in and about
00:59:04 16 November of '06?
00:59:12 17 A. Yes.
00:59:20 18 Q. Do you recall if you created any
00:59:28 19 Progress Notes for Spencer Sinkov?
00:59:36 20 A. I wrote a Progress Note.
00:59:44 21 Q. Do you recall when the last time was
00:59:52 22 that you saw it?
00:60:00 23 A. Probably that -- that next day after
00:60:08 24 the incident.
00:60:16 25 Q. I'm going to show you Exhibit 26 and

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Peter Clarke

1
00:60:24 2 ask you if you recognize that as your Progress
00:60:32 3 Note pertaining to Mr. Sinkov. (Handing)
00:60:40 4 A. Yes.
00:60:48 5 Q. You wrote in there, "Will monitor."
00:60:56 6 Do you see that?
00:61:04 7 A. Yes.
00:61:12 8 Q. What did that mean?
00:61:20 9 A. That means that if the inmate has
00:61:28 10 any further complaints, you know, continue to --
00:61:36 11 you know, to monitor the inmate.
00:61:44 12 Q. So, in terms of what you were going
00:61:52 13 to do to monitor, what would that be?
00:62:00 14 A. As far as if the officer called and
00:62:08 15 said, you know, Spencer wasn't feeling well; you
00:62:16 16 know, go up and see him. That's...
00:62:24 17 Q. So, that would be only if a
00:62:32 18 complaint was brought to your attention?
00:62:40 19 A. Right.
00:62:48 20 Q. You didn't intend by writing "Will
00:62:56 21 monitor," to do anything yourself to monitor him;
00:63:04 22 is that fair to say?
00:63:12 23 A. Right.
00:63:20 24 Q. And did you ever tell anybody, such
00:63:28 25 as Susan Waters, that if they received any

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1 information about Spencer - a complaint or
2 otherwise - that you felt that monitoring was
3 required?

4 A. I don't recall.

5 Q. Other than your Progress Note,
6 withdrawn.

7 Were your Progress Notes given to
8 Susan Waters, or are they contained in the file?

9 A. They're in the file.

10 Q. And did you bring to her attention
11 the fact that you wrote "Will monitor" on your
12 Progress Note?

13 A. I don't remember.

14 Q. Let me show you Exhibit 27, which is
15 the same Progress Note, but below it are two more
16 entries by Susan Waters. (Hanging)

17 Do you recall if you ever saw those
18 entries before today?

19 A. I don't recall.

20 Q. Did you ever speak with Susan Waters
21 about any of her interactions with Spencer Sinkov
22 at any time?

23 A. Yes.

24 Q. Do you recall when for the first

COMPU-TRAN SHORTHAND REPORTING

55

Peter Clarke

1 I couldn't, you know...

2 Q. Anything else that you said?

3 A. I don't recall.

4 Q. In terms of Susan Waters, did you
5 speak with her on any other occasions about
6 Spencer Sinkov?

7 A. I don't -- I don't remember.

8 Q. Anything that you could use to
9 refresh your memory, any notes or anything that
10 you created?

11 A. (Witness shakes head)

12 Q. You have to verbalize your answer.

13 A. Oh, no. No, I didn't.

14 Q. Did you ever come to learn at any
15 point in time that when you reviewed the Medical
16 Intake form, which is marked as Exhibit 7, not
17 only were you required to sign and date it, but
18 you were supposed to put the time of your review
19 on there?

20 A. Put the time on there?

21 Q. Yes.

22 A. No; I was supposed to just put the
23 date.

24 Q. Did anybody ever tell you that it

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1 time?

2 A. That afternoon.

3 Q. What did you say to her, and what
4 did she say to you?

5 A. I can't remember the exact.

6 Q. As best you can remember, what was
7 the substance of what you communicated to her and
8 what she said to you?

9 A. I'm trying to think. Just that he
10 had -- he had hung himself.

11 Q. She told you that?

12 A. Um-hum.

13 Q. Yes or no?

14 A. Yes.

15 Q. And did you say anything?

16 A. I said, I couldn't believe it.

17 Q. Anything else that she said during
18 that conversation?

19 A. No, I don't recall.

20 Q. Was it in person?

21 A. No; it was over the phone.

22 Q. Anything else that you said during
23 that conversation?

24 A. I just -- I -- I just was in shock.

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Peter Clarke

1 was policy to put the time on there, as well?

2 A. No. No.

3 Q. Take a look at the 2003 manual
4 that's in front of you. Specifically, the page
5 that's Bates stamped 495.

6 A. (Witness complies)

7 Q. The second paragraph, "In all cases,
8 the nurse must date, time, and sign the lower
9 right-hand corner of the IMIR to document that
10 the inmate was medically screened within the
11 four-hour limit."

12 Do you see that?

13 A. Yes.

14 Q. So, you were aware that the time was
15 required?

16 A. I guess, yes.

17 Q. And you didn't do that on Exhibit 7
18 in the case of Mr. Sinkov; correct?

19 MR. COON: Objection.

20 You can answer.

21 A. I don't see the time there, no.

22 Q. Did you ever see Exhibit 23, a memo
23 from Michelle Murnane to All Staff dated
24 January 22nd, 2004? (Hanging)

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1 **Peter Clarke**
 2 *(Witness peruses exhibit)*
 3 A. I don't -- I don't recall it.
 4 Q. Do you know who Michelle Murnane is?
 5 A. Yes.
 6 Q. Who was she?
 7 A. She was the predecessor of Rich.
 8 Q. DiMattio?
 9 A. Yes.
 10 Q. And the first paragraph of this
 11 pertaining to documentation states that, in
 12 substance, that you're required to date and time
 13 your signature on all entries, including the
 14 intake screenings, to prove that it was reviewed
 15 within four hours; correct?
 16 A. Yes.
 17 Q. And it says here, "Failure to show a
 18 time on the screening form indicates
 19 noncompliance with the four-hour requirement;"
 20 correct?
 21 A. Yes.
 22 Q. Did anybody ever counsel you or
 23 discipline you for failing to put the time on any
 24 of the inmate medicals records that you reviewed?
 25 A. I don't recall.

COMPU-TRAN SHORTHAND REPORTING

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1 **Peter Clarke**
 2 Q. As a matter of practice, did you
 3 time your signature and date on the IMIR?
 4 A. I would think that I would have.
 5 Q. Do you know why, then, in this case
 6 with respect to Mr. Sinkov, you didn't put a time?
 7 A. No.
 8 Q. Take a look if you would at
 9 Exhibit 25, Bates stamped Page 557, titled
 10 "Receiving Screening" at the bottom of that page.
 11 A. *(Witness complies)*
 12 Q. In substance that paragraph
 13 indicates that "AmeriCor staff will follow
 14 existing procedures that call for the booking
 15 officer to complete the Inmate Medical Intake
 16 Record and Suicide Prevention Screening at the
 17 time of the inmate's arrival at the jail." Then
 18 it says, "A registered nurse will then review
 19 these forms."
 20 Do you see that part?
 21 A. Yes.
 22 Q. Prior to November of 2006, were you
 23 aware of any policy or procedure that required
 24 you to review the forms pertaining to the suicide
 25 screening?

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1 **Peter Clarke**
 2 A. No.
 3 **MR. COON:** Objection to the
 4 form of that question.
 5 Q. On the next page, 558, under the
 6 numbered paragraphs one through six: "Inmates
 7 that receive a suicide screen score of eight or
 8 higher or who answer "Yes" to the questions
 9 enumerated there, will be referred to mental
 10 health staff for further evaluation."
 11 Do you see that?
 12 A. Yes.
 13 Q. Prior to November of 2006, were you
 14 aware of any requirement that if an inmate
 15 received a score or had a shaded box checked -- a
 16 score of eight or higher or had a shaded box
 17 checked, that you had an obligation to refer them
 18 to mental health?
 19 **MR. COON:** Objection.
 20 You can answer.
 21 A. No.
 22 Q. Did you ever refer Spencer Sinkov to
 23 mental health?
 24 A. No.
 25 Q. To your knowledge, did any AmeriCor

COMPU-TRAN SHORTHAND REPORTING

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1 **Peter Clarke**
 2 staff person make such a referral?
 3 A. I don't know.
 4 Q. Did you ever come to learn, at any
 5 point in time, that Susan Waters had referred
 6 him, as indicated on Exhibit 5? *(Handing)*
 7 *(Witness peruses exhibit)*
 8 A. No.
 9 Q. No?
 10 A. No.
 11 Q. Did you ever speak with Susan Waters
 12 about any referral that she made?
 13 A. No.
 14 Q. Or the basis for her referral?
 15 A. Not that I recall.
 16 Q. At any time -- at any point in time
 17 prior to November, 2006, were you ever told of
 18 any circumstances where you, as the nurse during
 19 an intake, were required to refer an inmate to
 20 mental health?
 21 A. Just do me a favor; just rephrase
 22 that again, please.
 23 Q. Sure. Prior to your training in
 24 November of '06 --
 25 A. Right.

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Peter Clarke

1 Q. -- did anybody ever provide you with
2 any policies, or procedures, or instructions that
3 you were required, as part of an intake, to make
4 a referral to mental health if you believed one
5 was warranted?

6 A. I could, yes.

7 Q. Did anybody tell you, though, that
8 it was supposed to be you who made that referral
9 as part of the intake process?

10 A. No.

11 Q. Look at the 2004 manual, please.
12 Pages 448 to 449.

13 A. 445?

14 Q. 448 to 449. It's called "Suicide
15 Prevention."

16 Do you see that three-page policy?

17 A. (Witness peruses record)

18 I have a call. I have to answer
19 this call.

20 (Recess taken)

21 CONTINUED EXAMINATION BY MS. BERG:

22 Q. Back to 448 to 449 -- it's actually
23 448 to 450. Did you ever see that policy before?

24 A. (Witness peruses record)

25 COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1 I don't recall, but I'm familiar
2 with the information in the policy.

3 Q. When did you first become aware of
4 the information in the policy? Was it at or
5 about the time that you received the training,
6 before, or after that?

7 A. I always knew that I could refer
8 somebody to mental health.

9 Q. Did you know, prior to November of
10 2006, that the suicide screening form was used to
11 determine if an inmate posed a high risk of
12 suicide?

13 A. Yes.

14 Q. And in terms of this policy, Suicide
15 Prevention, do you recall when you first saw it?

16 A. What?

17 Q. The policy, 448.

18 MR. COON: What you were just
19 looking at.

20 A. Oh, okay. I don't recall.

21 Q. Do you recall if you saw it at any
22 time prior to the training you received in
23 November of '06?

24 A. I don't recall.

25 COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1 Q. Do you remember if it was part of
2 the Policy Manual that was kept at the jail prior
3 to November of '06?

4 A. Probably; but as I said, I can't --
5 I can't definitely say.

6 Q. In terms of the suicide prevention
7 policy it says, "Inmates will be evaluated for
8 potential risk of suicide during the intake
9 process, using the Receiving Screening form."

10 Is it your understanding that the
11 correction officer administered that form;
12 correct?

13 A. Yes.

14 Q. Then it says, "Inmates determined to
15 be at risk as result of this screening process
16 will be placed on suicide precautions and
17 immediately referred to the psychiatrist."

18 Prior to November of '06, did you
19 ever have any understanding there was any
20 requirement that you, as the nurse, immediately
21 refer an inmate to the psychiatrist, based on the
22 suicide prevention screening process?

23 MR. COON: Objection to
24 the form of that question.

25 COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1 A. No.

2 Q. Do you have any understanding, as
3 you sit here today, as to what is meant by
4 "Suicide precautions" as referenced at Page 448?

5 MR. COON: That first
6 paragraph, here. (Indicating)

7 A. (Witness peruses record) Yes.

8 Q. What were suicide precautions?

9 A. To place a person, an inmate, on
10 one-to-one, constant observation.

11 Q. And who told you about that?

12 A. I've always known about it.

13 Q. How did you know, though, that the
14 term "suicide precautions" in this policy
15 referred to a one-on-one observation?

16 A. Because that's -- that's the only
17 thing it could mean.

18 Q. And in terms of the suicide
19 precautions, did you, as a nurse, have the
20 authority to institute those suicide precautions?

21 A. Yes.

22 Q. How is it that you would institute a
23 constant watch?

24 A. Just tell the -- bring it to the

25 COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

sergeant's attention, you know, that I think that this person needs a constant watch.

Q. Did you ever do that?

A. No.

Q. Did you do that in Spencer's case?

A. No.

Q. Did you ever come to learn at any point in time that he was placed on a 15-minute watch?

A. I don't recall.

Q. The third paragraph of the suicide prevention policy, Page 448 says: "Inmates who are determined to be at risk will be promptly referred to mental health personnel for additional assessment and treatment."

Do you have any understanding as to what the term "promptly" means there?

A. At the time that the determination is made that the person is at risk.

Q. And when would that be in terms of intake? Is it at intake or something else?

A. If it's found to be at intake, then it would be at intake.

Q. In terms of being at risk, with

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Peter Clarke

respect to the Suicide Prevention Screening Guidelines, that's a tool to use to determine if somebody's at risk at screening; correct?

A. Yes.

Q. And in this case, Spencer's score indicated that he was at risk; correct?

A. I have to look at it.

Q. That's Exhibit 3, just for the record.

A. (Witness peruses record) Yes.

Q. And did you do anything to promptly refer him to mental health personnel?

A. No.

Q. To your knowledge, did anyone?

A. I don't -- not to my knowledge.

Q. Did anybody ever counsel you or discipline you in any way for failing to follow any policy or procedure requiring you to promptly refer Spencer to mental health?

A. No.

MR. COON: Objection to the form of the question.

Q. On the next page, 449: "Inmates who are placed on suicide precautions will be placed

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Peter Clarke

in the facility's mental health unit or placed on regular observation status, such that they are subject to monitoring by correctional and/or health-care personnel."

Do you see that?

A. Yes.

Q. Did you have any obligation to actually monitor inmates --

A. No.

Q. -- as a nurse?

A. No.

Q. Do you know what "regular observation status" means?

A. The every-15-minutes-- check somebody every 15 minutes.

Q. So, were you ever of the understanding that, contrary to what you just testified to about suicide precautions being one-on-one supervision, that AmeriCor's policy said that the check should be every 15 minutes?

A. No. It should be one -- no.

Q. You were starting to say it should be one-on-one; correct?

MR. COON: Objection.

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Peter Clarke

A. Yes.

Q. Did you ever come to learn about any requirements that individuals who pose a risk for having progression to withdrawal symptoms -- to developing withdrawal symptoms -- withdrawn. Let me start over.

In terms of individuals who come into the facility --

A. Right.

Q. -- as a nurse or in any of your training, have you ever come to learn that symptoms of withdrawal sometimes do not appear immediately?

A. Yes.

Q. And have you also been trained, or do you know, based on your nursing experience and training, that sometimes symptoms do not peak for 24 to 72 hours?

A. Yes.

Q. Are you aware of any AmeriCor policies or procedures which indicated that constant supervision should be given to inmates who have a risk of progressing to withdrawal symptoms?

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Peter Clarke

1
01:00:24 2 A. No.
01:00:24 3 Q. Did you ever see anything in writing
12 4 about that?
7 5 A. I don't recall.
01:00:26 6 Q. Did anybody ever tell you that, that
01:00:27 7 should be followed?
01:00:28 8 A. I don't -- I don't recall.
01:00:29 9 Q. Take a look at Page 561 of Exhibit 25.
01:00:30 10 A. (Witness complies)
01:00:31 11 Q. Under "Detoxification." This is, by
01:00:32 12 the way, a document that was provided by AmeriCor
01:00:33 13 to the county as part of its initial contract.
01:00:34 14 In terms of the --
01:00:35 15 A. Is this dated?
01:00:36 16 Q. It was in or about 2003, okay? I
01:00:37 17 believe, July of '03.
01:00:38 18 In terms of the "Detoxification"
01:00:39 19 section, the bottom paragraph, last line:
01:00:40 20 "Individuals at risk for progression to more
01:00:41 21 severe levels of withdrawal will be under
01:00:42 22 constant observation by correctional officers."
01:00:43 23 Do you see that?
01:00:44 24 A. Yes.
01:00:45 25 Q. Do you know if that was ever

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Peter Clarke

1
01:00:46 2 county employees present?
01:00:47 3 A. There was COs, correction COs, yes.
01:00:48 4 Q. That attended the training, not gave
01:00:49 5 the training?
01:00:50 6 A. No. They were there. I don't
01:00:51 7 believe that they were attending it. They were
01:00:52 8 there.
01:00:53 9 Q. Do you know why they were there?
01:00:54 10 A. They're part of the instructional
01:00:55 11 staff.
01:00:56 12 Q. Do you know who they were?
01:00:57 13 A. There was the officer that was
01:00:58 14 giving it and a sergeant. I don't know the
01:00:59 15 sergeant's name.
01:01:00 16 Q. Do you recall if this was a man or a
01:01:01 17 woman?
01:01:02 18 A. A man.
01:01:03 19 Q. Do you recall if it was LaPolla?
01:01:04 20 A. No. I don't -- no.
01:01:05 21 Q. Did you ever speak with Correction
01:01:06 22 Officer Vasaturo at any point in time about
01:01:07 23 Spencer Sinkov?
01:01:08 24 A. No, I don't recall.
01:01:09 25 Q. Did you ever speak with Sergeant

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
01:01:10 2 translated into any kind of a written policy or
01:01:11 3 procedure?
01:01:12 4 THE WITNESS: I have a call.
01:01:13 5 MS. BERG: Go ahead.
01:01:14 6 (Recess taken)
01:01:15 7 CONTINUED EXAMINATION BY MS. BERG:
01:01:16 8 Q. In terms of the suicide screening
01:01:17 9 form, Exhibit 3 which is here, at the bottom
01:01:18 10 there's a section that says "Medical staff and/or
01:01:19 11 mental-health provider actions."
01:01:20 12 Do you see that?
01:01:21 13 A. Yes.
01:01:22 14 Q. In your employment at AmeriCor,
01:01:23 15 Putnam County, did you ever have to complete that
01:01:24 16 portion of the form?
01:01:25 17 A. No.
01:01:26 18 Q. When you attended the suicide
01:01:27 19 prevention training, were other AmeriCor staff
01:01:28 20 persons present?
01:01:29 21 A. Yes.
01:01:30 22 Q. Did you have an understanding that
01:01:31 23 it was mandatory training?
01:01:32 24 A. Yes.
01:01:33 25 Q. Were any correction officers or

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Peter Clarke

1
01:01:34 2 LaPolla about Spencer Sinkov?
01:01:35 3 A. No. I don't recall.
01:01:36 4 Q. Take a look at the 2003 Procedure
01:01:37 5 Manual, Exhibit 28.
01:01:38 6 A. 28?
01:01:39 7 Q. Yes. Bates stamped 518 to 519.
01:01:40 8 A. (Witness complies)
01:01:41 9 Q. Did you ever see that procedure
01:01:42 10 while you worked for AmeriCor?
01:01:43 11 A. (Witness peruses exhibit)
01:01:44 12 I don't recall if I saw this or not.
01:01:45 13 Q. Prior to November of '06, did you
01:01:46 14 ever have any understanding that inmates who
01:01:47 15 verbally reported a history of opiate, including
01:01:48 16 heroin, use, when coming into the facility are
01:01:49 17 supposed to be evaluated for potential onset of
01:01:50 18 withdrawal symptoms?
01:01:51 19 A. I'm sorry. Just say this again.
01:01:52 20 Q. Sure. Did you ever know, prior to
01:01:53 21 November of '06, of any policies or procedures
01:01:54 22 that required you to evaluate inmates who are
01:01:55 23 coming into the facility for potential onset of
01:01:56 24 withdrawal symptoms, where those inmates reported
01:01:57 25 having used heroin or opiates?

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*Peter Clarke**Peter Clarke*

1
01:26:01 2 A. Yes.
01:26:07 3 Q. What did you have to do as a nurse
01:26:10 4 to evaluate the potential onset of those
01:26:14 5 symptoms?
01:26:14 6 A. If somebody said that they were
01:26:17 7 withdrawing, take their vital signs. Check --
01:26:22 8 you know, check them. Check their skin. See if
01:26:25 9 there's cold, sweaty, clammy skin. The most
01:26:29 10 important thing is, you know, what the inmate
01:26:33 11 complains about. You know, they usually say, you
01:26:34 12 know, I'm sick; I'm dope sick. You know, I don't
01:26:34 13 feel good. Vomiting, you know, you can usually
01:26:40 14 see.
01:26:42 15 Q. And what if when the inmate came in
01:26:44 16 they didn't have those symptoms; is there
01:26:47 17 anything that you're required to do to determine
01:26:48 18 whether, you know, they had the potential for
01:26:51 19 developing them at a later point during their
01:26:53 20 incarceration?
01:26:54 21 A. That's why I told them, you know,
01:26:54 22 that, you know, we're there. All he has to do
01:27:00 23 is, you know, tell the officer, and the officer
01:27:03 24 will get in touch with us, and we'll evaluate
01:27:00 25 them; we'll see them.

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*Peter Clarke**Peter Clarke*

1
01:27:07 2 Q. So, that would be up to Spencer,
01:27:09 3 then, to notify somebody?
01:27:10 4 A. Right; or the officer. You know,
01:27:12 5 sometimes the officer would say so-and-so doesn't
01:27:14 6 look right, or so-and-so is sick. All right?
01:27:16 7 Q. Did you, though, as a nurse at that
01:27:18 8 time in May of '06, have any obligation by reason
01:27:22 9 of policy or procedure to, yourself, evaluate
01:27:23 10 whether symptoms were appearing?
01:27:26 11 A. As far as policy is concerned?
01:27:28 12 Q. Yes.
01:27:30 13 A. I don't recall.
01:27:30 14 Q. Do you recall actually seeing
01:27:34 15 Spencer during the intake process?
01:27:34 16 A. I remember all of it.
01:27:36 17 Q. You do?
01:27:37 18 A. Yeah.
01:27:42 19 Q. Do you remember whether you made any
01:27:40 20 observations as to whether or not he had a runny
01:27:42 21 nose?
01:27:45 22 A. He -- he didn't look like he had a
01:27:49 23 runny nose. He did not. He didn't look sick at
01:28:01 24 all.
01:28:01 25 Q. Do you recall if he had watery eyes?

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1
01:28:02 2 A. That -- that, I don't recall.
01:28:05 3 Q. Do you recall if he discussed, in
01:28:08 4 any way with you, his appetite?
01:28:11 5 A. No. We specifically didn't mention
01:28:13 6 appetite.
01:28:14 7 Q. What do you remember about his
01:28:16 8 height and weight?
01:28:18 9 A. He was 5' 8", like 150, 160.
01:28:20 10 Q. Do you recall that he was more like
01:28:22 11 6' 1" and 130?
01:28:24 12 A. (No response)
01:28:26 13 Q. Yes or no?
01:28:28 14 A. No, I don't.
01:28:30 15 Q. Do you recall that he presented as
01:28:32 16 being very thin?
01:28:34 17 A. Yes, he looked thin.
01:28:36 18 Q. And as a result of him appearing
01:28:38 19 thin, did you ask any questions about his eating
01:28:40 20 habits or appetite?
01:28:42 21 A. No, no.
01:28:44 22 Q. Did you take his temperature or feel
01:28:46 23 his skin?
01:28:48 24 A. No.
01:28:50 25 Q. Did you ask him if he had any muscle

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1
01:28:56 2 cramped?
01:28:58 3 A. No, I didn't.
01:29:00 4 Q. Did you ask him if he had any
01:29:02 5 nausea?
01:29:04 6 A. I asked him how he felt.
01:29:06 7 Q. Okay, but did you ask him if he had
01:29:08 8 any nausea?
01:29:10 9 A. No, I didn't. No. No.
01:29:12 10 Q. Did you ask him if, in the last
01:29:14 11 24 hours, he had vomited or had diarrhea?
01:29:16 12 A. No, I didn't ask him.
01:29:18 13 Q. Did he report any of that to you?
01:29:20 14 A. No, he didn't.
01:29:22 15 Q. You indicated that the policy was,
01:29:24 16 you would be called to booking when a new inmate
01:29:26 17 came to the facility?
01:29:28 18 A. Yes.
01:29:30 19 Q. Do you remember who called you in
01:29:32 20 connection with the intake of Spencer?
01:29:34 21 A. No.
01:29:36 22 Q. When you got to booking, what did
01:29:38 23 you observe?
01:29:40 24 A. When I got to booking, I thought he
01:29:42 25 was a cop; I thought he was an undercover cop

COMPU-TRAN SHORTHAND REPORTING

Peter Clarke

1 because he was standing there, talking to one of
2 the COs and just -- nonchalant behavior. As a
3 matter of fact, I didn't even approach him. I
4 stood away, waiting for them to finish talking.
5 Q. Did you hear anything that was being
6 said?
7 A. No. I was at the other end of the
8 counter. I was 20, 30 feet away.
9 Q. And who was the correction officer
10 that was speaking with him at the time?
11 A. I don't know. I don't recall it.
12 Q. When was the first time during the
13 process that you could hear anything that was
14 being said to Spencer or that Spencer was saying?
15 A. When I went up there.
16 Q. And what happened when you
17 approached?
18 A. I engaged in a conversation. I was
19 talking to him.
20 Q. What did you say to him? What did
21 he say to you?
22 A. I introduced myself. I asked him if
23 he had any medical problems.
24 He said, no. He volunteered that he

COMPU-TRAN SHORTHAND REPORTING

Peter Clarke

1 last used drugs, heroin, within the last 24 hours.
2 Q. Anything else?
3 A. No, just -- and I explained to him,
4 you know, about medical. That have the officer
5 talk -- you know, talk to the officer and the
6 officer would get -- would get us, you know, if
7 he didn't feel well.
8 Q. Anything else that you said to him
9 or that he said to you?
10 A. No. We were laughing and joking.
11 Q. What were you laughing and joking
12 about?
13 A. He was making a joke about -- about --
14 you know, about, you know, feeling okay and he
15 didn't have any medical -- you know, just, you
16 know -- he was just, you know, kidding. You
17 know, kidding mood, you know. That's the way he
18 responded to us.
19 Q. Well, did he appear, as a result of
20 making a joke about his situation, to be under
21 the influence of anything?
22 A. No.
23 Q. Anything that you can recall him
24 specifically say that was a joke or kidding

COMPU-TRAN SHORTHAND REPORTING

Peter Clarke

1 around?
2 A. Just about medical problems, he
3 said, no, I don't have any, you know.
4 Q. Well, the way you're saying it, it's
5 not coming across like he was laughing or joking;
6 so, that's why I'm following up.
7 A. Right, but he did, though. He said
8 something about past medical -- you know, I asked
9 him, about, you know, do you have any medical
10 problems?
11 He said, no. And you know, he -- I
12 don't know. He just said something at the time
13 that -- you know, that he laughed about.
14 Q. Do you recall what that was?
15 A. I can't remember.
16 Q. Anything else that you can recall
17 asking him?
18 A. Just that if he was on medication;
19 and he said, no.
20 Q. Did you ever come to learn that he
21 was taking Lunesta?
22 A. No.
23 Q. Take a look at Exhibit 7, the IMIR,
24 second page.

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Peter Clarke

1 A. (Witness complies)
2 Q. Do you see where it notes that he
3 was taking Lunesta on the top?
4 A. Um-hum.
5 Q. Do you see that?
6 A. Yes.
7 Q. Do you recall that, now that you've
8 reviewed that form again?
9 A. I don't -- I don't recall.
10 Q. What's Lunesta used for?
11 A. Sleep.
12 Q. Did you ever ask him anything about
13 whether he had any problems sleeping?
14 A. No.
15 Q. Did you ask him any questions about
16 for how long he had been taking Lunesta?
17 A. No.
18 Q. Anything else that you can recall
19 saying to Spencer or Spencer said to you?
20 A. No.
21 Q. Did you take his vital signs?
22 A. No.
23 Q. Approximately, how long did you have
24 this interaction with him?

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*Peter Clarke**Peter Clarke*

1
01:27:58 2 A. Five minutes.
01:28:00 3 Q. Was anybody else present?
01:28:02 4 A. The booking officer and Sergeant
01:28:04 5 LaPolla.
01:28:06 6 Q. Were they within earshot?
01:28:08 7 A. Yes.
01:28:10 8 Q. Did LaPolla say anything during your
01:28:12 9 interaction with Spencer?
01:28:14 10 A. I don't recall it.
01:28:16 11 Q. Do you recall LaPolla asking Spencer
01:28:18 12 any questions about how he used his drugs?
01:28:20 13 A. I don't recall.
01:28:22 14 Q. Or how much he used?
01:28:24 15 A. I don't recall.
01:28:26 16 Q. Do you recall Spencer indicating
01:28:28 17 that he used, quote, "a lot"?
01:28:30 18 A. I don't recall. I don't recall.
01:28:32 19 Q. Do you recall the booking officer
01:28:34 20 was Vasaturo?
01:28:36 21 A. Yes.
01:28:38 22 Q. Did he say anything in your presence
01:28:40 23 to Spencer?
01:28:42 24 A. In my presence, no.
01:28:44 25 Q. Did you hear anybody say anything to

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
01:28:46 2 Spencer at any point in time?
01:28:48 3 A. I didn't hear. As I said, I didn't
01:28:50 4 hear what they were talking about.
01:28:52 5 Q. Did you hear Spencer say anything to
01:28:54 6 anybody else, except for you, of course?
01:28:56 7 A. He was answering LaPolla, but I
01:28:58 8 forgot what LaPolla was talking about.
01:29:00 9 Q. You have no recollection of that?
01:29:02 10 A. I can't remember.
01:29:04 11 Q. Were the members of the Sheriff's
01:29:06 12 Department - the investigators, the deputy
01:29:08 13 sheriffs - present at any point in time while you
01:29:10 14 were in booking?
01:29:12 15 A. I -- I can't recall.
01:29:14 16 Q. Do you recall that there was another
01:29:16 17 incoming inmate named Robert Thompson at that time?
01:29:18 18 A. No.
01:29:20 19 Q. Do you recall if anybody spoke with
01:29:22 20 Robert Thompson about Spencer Sinkov?
01:29:24 21 A. No.
01:29:26 22 Q. As a matter of procedure, did you
01:29:28 23 ever receive memos from corrections staff about
01:29:30 24 inmates who were placed on constant, or 15-minute
01:29:32 25 watches?

COMPU-TRAN SHORTHAND REPORTING

1
01:28:46 2 A. Yes.
01:28:48 3 Q. Would they be in the form of
01:28:50 4 Exhibit 4? It's called a P-1.
01:28:52 5 A. Yes.
01:28:54 6 Q. And do you recall if you received
01:28:56 7 this P-1 about Spencer?
01:28:58 8 A. I don't recall.
01:29:00 9 Q. Other than what you testified to
01:29:02 10 already here today about Susan Waters, did you
01:29:04 11 have conversations with anyone from AmeriCor
01:29:06 12 about Spencer or the events of May 20th, 2006?
01:29:08 13 A. No, I don't -- no.
01:29:10 14 Q. Did you ever speak with Kevin Duffy
01:29:12 15 about Spencer, or the events of May 20th, 2006?
01:29:14 16 A. No.
01:29:16 17 Q. Did he ever ask you any questions
01:29:18 18 about --
01:29:20 19 A. No.
01:29:22 20 Q. -- what you did or didn't do on that
01:29:24 21 day?
01:29:26 22 A. No.
01:29:28 23 Q. Did you ever speak with Rich DiMattio
01:29:30 24 about Spencer or May 20th, 2006?
01:29:32 25 A. No, I don't -- no, I don't recall.

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Peter Clarke

1
01:29:34 2 Q. Are you aware of any procedures in
01:29:36 3 place when you worked for AmeriCor about
01:29:38 4 providing detox meds or other programs for
01:29:40 5 inmates who come in being addicted to drugs?
01:29:42 6 A. Yes.
01:29:44 7 Q. What are you aware of in that regard?
01:29:46 8 A. Say that again?
01:29:48 9 Q. What are you aware of? What
01:29:50 10 policies were there?
01:29:52 11 A. They would be placed on a librium
01:29:54 12 taper.
01:29:56 13 Q. And under what circumstances would
01:29:58 14 they actually receive the librium?
01:30:00 15 A. If they were showing signs and
01:30:02 16 symptoms of withdrawal.
01:30:04 17 Q. Only at that point?
01:30:06 18 A. If -- if -- if you thought it was,
01:30:08 19 you know, warranted, yes, you would put them on a
01:30:10 20 librium taper.
01:30:12 21 Q. At any point in time was Spencer
01:30:14 22 given any librium taper?
01:30:16 23 A. No.
01:30:18 24 Q. Are you aware of any policies or
01:30:20 25 procedures within the facility or AmeriCor with

COMPU-TRAN SHORTHAND REPORTING

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Peter Clarke

1
01:27:20 2 respect to providing CPR?
01:27:25 3 A. Yes. They have CPR, yes.
17 4 Q. Are you trained to give it?
5 5 A. Yes.
01:27:29 6 Q. And have you ever had occasion to do
01:27:31 7 so?
01:27:31 8 A. Not there. I've given CPR.
01:27:34 9 Q. In AmeriCor or in the Putnam County
01:27:36 10 Correctional Facility, were there any policies or
01:27:40 11 procedures about who can stop CPR once it's
01:27:42 12 commenced?
01:27:44 13 A. I don't recall them.
01:27:46 14 Q. When Susan Waters contacted you, was
01:27:50 15 that the first time that you learned that Spencer
01:27:52 16 had committed suicide?
01:27:54 17 A. Yes.
01:27:57 18 Q. Did you ever have any conversations
01:28:00 19 with any Putnam County employees about Spencer?
01:28:02 20 A. No.
01:28:04 21 Q. Did you ever have any communications
01:28:06 22 with Vasaturo or LaPolla during the booking
01:28:08 23 process about Spencer?
01:28:10 24 A. Wait. Just say that again.
01:28:12 25 Q. During the booking process --

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Peter Clarke

1
01:28:14 2 A. They were just going over the policy
01:28:16 3 and what happened that day.
01:28:18 4 Q. Do you recall anything that you told
01:28:20 5 them?
01:28:22 6 A. I told them -- I told them what
01:28:24 7 happened.
01:28:26 8 Q. What did you tell them?
01:28:28 9 A. The same thing, you know, that we
01:28:30 10 just -- you know, they asked me what the
01:28:32 11 procedure was, and I -- everything that I said.
01:28:34 12 Q. Tell me what you told the
01:28:36 13 commissioners or the investigators from the
01:28:38 14 Commission.
01:28:40 15 A. I don't -- I don't recall exactly.
01:28:42 16 Q. What did you tell the investigators
01:28:44 17 from the Commission as to the procedure?
01:28:46 18 A. I don't recall. This is how many --
01:28:48 19 a couple of years ago. I don't remember.
01:28:50 20 Q. Did you provide them with anything
01:28:52 21 in writing?
01:28:54 22 A. I don't recall.
01:28:56 23 Q. Did you ever come to learn that the
01:28:58 24 County of Putnam or the Sheriff's Department
01:29:00 25 conducted an investigation, as well?

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Peter Clarke

1
01:29:02 2 A. Right.
01:29:04 3 Q. -- did you speak with Vasaturo about
01:29:06 4 Spencer at all?
01:29:08 5 A. No.
01:29:10 6 Q. Did you speak with LaPolla about him
01:29:12 7 at all?
01:29:14 8 A. No.
01:29:16 9 Q. Did there come a point in time when
01:29:18 10 the State Commission of Correction conducted an
01:29:20 11 investigation into Spencer's death?
01:29:22 12 A. Yes.
01:29:24 13 Q. And how did you know about that
01:29:26 14 investigation?
01:29:28 15 A. Because I was called to talk to them.
01:29:30 16 Q. Do you remember when that occurred?
01:29:32 17 A. I don't recall.
01:29:34 18 Q. When you met with them, was that at
01:29:36 19 Putnam County?
01:29:38 20 A. Yes.
01:29:40 21 Q. And do you recall who you met with?
01:29:42 22 A. Two. Two gentlemen from Albany. I
01:29:44 23 don't remember who.
01:29:46 24 Q. Do you remember what they said to
01:29:48 25 you; what you said to them?

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Peter Clarke

1
01:29:50 2 A. No.
01:29:52 3 Q. Did anybody from the Sheriff's
01:29:54 4 Department - investigators from BCI, for example -
01:29:56 5 ever question you?
01:29:58 6 A. No.
01:30:00 7 Q. Did you ever provide them with a
01:30:02 8 statement?
01:30:04 9 A. No.
01:30:06 10 Q. Were you aware that others had been
01:30:08 11 questioned, regarding Spencer's death, by members
01:30:10 12 of BCI?
01:30:12 13 A. No.
01:30:14 14 Q. Did anyone ever discuss with you
01:30:16 15 anything about the State Commission's report?
01:30:18 16 A. About...?
01:30:20 17 Q. About Spencer. In other words, the
01:30:22 18 State Commission issued a report on their
01:30:24 19 investigation.
01:30:26 20 A. Right.
01:30:28 21 Q. Did you ever learn anything about
01:30:30 22 that report? Did anybody share it with you or
01:30:32 23 discuss it with you?
01:30:34 24 A. No. I never saw a copy of it.
01:30:36 25 Q. You never conversed with anyone

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1 Peter Clarke

2 about it?

3 A. No.

4 MS. BERG: Do you want to

5 talk?

6 MR. SINKOV: Yes, just

7 really briefly.

8 MS. BERG: Just give us

9 another minute.

10 (Recess taken)

11 MS. BERG: Are there any

12 answers you've given that you want to

13 modify or change at this time?

14 THE WITNESS: No.

15 MS. BERG: I don't have

16 anything else.

17 MR. COON: I have no

18 questions.

19 MR. KLEINBERG: No

20 questions.

21 MR. GELARD: No questions.

22

23 ooo

24

25 (Time ended: 4:21 p.m.)

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1

2

3 STATE OF NEW YORK)

4) ss

5 COUNTY OF ROCKLAND)

6

7

8 I, Donna Bochnik, Notary Public within

9 and for the State of New York, do hereby

10 certify:

11

12 That I reported the proceedings in the

13 within entitled matter, and that the within

14 transcript is a true record of said

15 proceedings.

16

17 I further certify that I am not

18 related to any of the parties to the action by

19 blood or marriage, and that I am in no way

20 interested in the outcome of this matter.

21

22 IN WITNESS WHEREOF, I have hereunto

23 set my hand this 25th day of January, 2008.

24

25

DONNA BOCHNIK,
NOTARY PUBLIC

COMPU-TRAN SHORTHAND REPORTING

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1

2 STATE OF NEW YORK)

3 ss:

4 COUNTY OF WESTCHESTER)

5

6

7

8 I, PETER CLARKE, the witness

9 herein, having read the foregoing testimony of

10 the pages of this deposition, do hereby certify

11 it to be a true and correct transcript, subject

12 to the corrections, if any, shown on the

13 attached page.

14

15

16 ooo

17

18

19

20

21 PETER CLARKE

22 Subscribed and sworn to before me

23 this ____ day of ____, 2008.

24

25

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EXAMINATION BY:

Ms. Berg 4 10

DOCUMENT/DATA REQUESTED:

NONE

PLAINTIFF'S EXHIBITS:

32 - 10/11/06 memo from Rich
to AH Staff 12 8

DEFENDANT'S EXHIBITS:

NONE

RULINGS CONTEMPLATED:

NONE

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CORRECTION SHEET

Re: *DONNY A. SINKOV v. DONALD B. SMITH*

The following corrections, additions
or deletions were noted on the transcript of
the testimony which I gave in the above-
captioned matter, held on 1/17/08.

PAGE(S) LINE(S) SHOULD READ

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PETER CLARKE

Subscribed and sworn to before me
this ___ day of _____ 2008.

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